

Notes to Retail Providers

January 2004

Power Source Disclosure Program Annual Reporting Requirements

These notes provide current information and guidance on how retail providers can comply with the regulations for retail providers claiming an energy mix or fuel mix different than the California Mix, (Net System Power)ⁱ.

As a retail provider you are probably aware that **all** retail providers of electricity serving California consumers are subject to provisions mandating disclosure of fuel mix information to consumersⁱⁱ. These regulations also require every retail provider who makes an offer to sell electricity that is consumed in California and makes any claims that its electricity sources are different from Net System Powerⁱⁱⁱ to disclose these sources as Specific Purchases^{iv}, and to comply with reporting requirements. These notes serve to remind those of you that made claims of specific purchases in calendar year 2003 of the reporting requirements, give you information and guidance regarding the annual reporting requirements, and alert you to the upcoming report filing dates.

When must you file?

<u>Report/Filing</u>	<u>Submit No Later Than</u>
2003 Annual Retail Providers Report (to Energy Commission)	March 1, 2004
2003 Quarterly Power Content Labels	March 1, 2004
2003 Annual Power Content Label (to Customers)	April 15, 2004
Independent Audit/Verification of 2003 Annual Power Content Label and Annual Report (to Energy Commission)	June 1, 2004

The Annual Report Filing

Pursuant to Section 398.5 of the Public Utilities Code and Section 1394 of Title 20 of the California Code of Regulations, retail providers must submit an annual report to the California Energy Commission (Energy Commission) on March 1 for each electricity product offering they made the previous year for which they made claims of specific purchases. Because several questions have been raised regarding this matter, we would like to emphasize that **only retail providers who made claims of specific purchases during the 2003 calendar year must submit an Annual Report by March 1, 2004. Also, note that ALL retail providers-whether or not claims of specific purchases were made-are required to provide the Energy**

Commission with a copy of the quarterly labels that they provided their customers. If you have not provided copies of your quarterly labels to the Energy Commission, you must do so by March 1, 2004. If you have any doubts concerning the submission of quarterly labels or an Annual Report, please call Jason J. Orta at (916) 653-5851.

The Annual Report must contain the following information:

- 1) The registered electric service provider Identification Number as assigned by either the Public Utilities Commission or the Energy Commission”;
- 2) The kilowatt-hours *purchased*, by generating facility and fuel type, during the previous calendar year, consistent with the meter data reported to the system operator (Retail providers that purchase electricity from a power pool that submits an Annual Report to the Energy Commission may provide this information by reference to the date and title of that filing submitted by the specified power pool);
- 3) The generating facilities must be identified using the identification number provided by the U. S. Energy Information Administration (EIA) or if in the case that an identification number does not exist, an identification number provided by the Energy Commission (Energy Commission Renewable Energy Program registration number, and/or Qualifying Facility (QF) number);
- 4) For each electricity product offered for sale in California, the kilowatt-hours sold at retail during the previous calendar year;
- 5) For each electricity product offered for sale in California, a sample of each Power Content Label and promotional materials denoting the retail provider’s power content provided to consumers (pursuant to Title 20, California Code of Regulations, §1393) during the previous calendar year.

The Energy Commission recognizes that some retail providers report their purchases of renewable generation to the Energy Commission and the California Public Utilities Commission in order to demonstrate their compliance with the State’s Renewable Portfolio Standard (RPS). Retail providers may submit Schedule 1 of this RPS report, “Report to the California Energy Commission c/o the California Public Utilities Commission: Utility Procurement of Renewable Energy in 2003,” in order to demonstrate specific purchases of renewable generation. However, submitting the RPS report’s Schedule 1 of the report to the Public Utilities Commission is not required and retail providers may report all specific purchases on Schedule 1 of the SB 1305 Annual Report. Specific purchases of non-renewable energy generation need to be identified on Schedule 1 of the SB 1305 Annual Report when Schedule 1 of the RPS report to the Public Utilities Commission is included along with the SB 1305 Annual Report forms. The Energy Commission’s Power Source Disclosure Program will accept filings that utilize both reports.

The regulations further require that this information be provided electronically in a tabular spreadsheet or database format that allows separate fields or cells to be identified for the information by product, generating facility, and fuel type. Finally, the regulations require each retail provider who makes a claim of specific purchases to provide an attestation, signed under penalty of perjury, that the kilowatt-hours claimed by the retail provider as specific purchases during the previous calendar year were sold once and only once to retail consumers.

The recommended format for the Annual Report (including the form for the attestation) is available as an Excel file that can be downloaded from the Energy Commission's web site at <http://www.energy.ca.gov/sb1305>. To use these forms, simply download the Excel file from the web site. Enter the relevant information in the spaces indicated on the forms, save your Excel file with your name and then e-mail this saved Excel file to <sb1305@energy.state.ca.us> by March 1, 2004. In addition, mail a copy of the filing including the signed attestation to:

Jason J. Orta
Dockets 00-SB-1305
California Energy Commission
1516 9th Street, MS-4
Sacramento, CA 95814

The Dockets Office of the Energy Commission must receive the original copies of the forms that were filed electronically by 4:00 p.m., March 8, 2004.

If your company does not have Internet access but would like an electronic copy of the Annual Report file, you can obtain an electronic copy of the spreadsheet by submitting a written request to Jason J. Orta at the address given above. Late requests will not change the required filing date of no later than March 1, 2004.

If your company does not possess a recent copy of Excel (version 5.0 or later) or otherwise cannot file electronically, the Energy Commission will waive the requirement that the report be submitted in an electronic format and accept paper copies of the completed forms with your filing. The recently revised forms are enclosed and additional copies are available upon request. To meet the March 1, 2004, filing date, a copy of the Annual Report may be faxed to Jason Orta at (916) 653-8251, provided that the original Annual Report, including the signed attestation, is mailed and received at the California Energy Commission Docket Office by 4:00 p.m., March 8, 2004.

The Annual Power Content Label

Retail providers are required to provide their customers with a power content label containing an annual disclosure for each electricity product for which the provider made a claim of specific purchases during the previous calendar year. This annual disclosure must be provided to customers by April 15 each calendar year using a format specified in the Energy Commission's regulations. Additional information about the format and content requirements for the Annual Power Content Label can be found in the Energy Commission's regulations and the "Retail Disclosure in Plain English," document available on the Energy Commission's website at <www.energy.ca.gov/regulations/retail_disclosure.html>.

The Independent Verification Process

To ensure the accuracy of marketing claims to consumers and to prevent the misuse of public funds, the Energy Commission's regulations require program participants to have their electricity purchases and sales independently verified. Current regulations require an independent "audit"

of the Annual Power Content Label and the Annual Report by June 1 each calendar year. In general, the regulations require the auditor to audit the following:

- 1) the fuel types used by each generating facility identified in the Annual Report,
- 2) contracts and/or certificates of specific generation necessary to trace sale of electricity from the generator to the retailer, and
- 3) retail sales to consumers to verify the accuracy of both the annual fuel mix disclosed to customers and the Annual Report.

The regulations also require an independent “audit” of any renewable power pool, which is referenced in a retail provider’s Annual Report in lieu of a specific generator.

The Energy Commission’s regulations allow the use of a set of “agreed-upon procedures” to meet the verification requirements. The agreed-upon procedures are essentially a set of instructions or protocols expected to guide the accountant through the necessary verification process. The agreed-upon procedures simplify the verification and reporting requirements of the Power Source Disclosure Program.

Following receipt of the Independent Audit verification in June 2003, the Energy Commission will prepare a Reconciliation Report that is submitted to the California Public Utilities Commission in October. The Reconciliation Report compares the level of Specific Purchase Claims to the actual level of generation by generating source. This public document also allows for an assessment of the level of compliance of electric service providers with California’s power source disclosure regulations. **Additionally, this year the Reconciliation Report will contain an assessment of the compliance of all retail providers with the requirement for providing customers with the mandated quarterly power content labels.** Providing the Energy Commission with copies of your quarterly power content labels is the only way the Energy Commission can verify your participation in the Power Source Disclosure Program and compliance with Title 20 §1393 (c) (2) of the California Code of Regulations.

Hopefully these notes have been an effective reminder of the upcoming reporting requirements. As always, the Energy Commission staff is available to answer any of your questions.

Direct questions regarding the Power Source Disclosure Program and the Energy Commission's Certificate program should be directed to Jason Orta at (916) 653-5851 or jorta@energy.state.ca.us.

ⁱ Net System Power is defined as "the mix of electricity fuel source types established by the California Energy Resources Conservation and Development Commission representing the sources of electricity consumed in California that are not disclosed as specific purchases." (Public Utilities Code, Section 398.2(c))

ⁱⁱ For a description of the retail disclosure requirements in the Public Utilities Code and the California Code of Regulations, see the “Retail Disclosure in Plain English” document on the Energy Commission’s website at, [<http://www.energy.ca.gov/regulations/retail_disclosure.html>](http://www.energy.ca.gov/regulations/retail_disclosure.html) or contact the Energy Commission at the phone number or e-mail address given at the end of this document.

ⁱⁱⁱ A “claim of specific purchases” or a “claim that identifies any of a retail provider’s electricity sources as different from net system power” is defined as “...any statement that is made to consumers by a retail provider for the purpose of marketing any electricity product and that contains either:

- (1) A reference to use of an eligible renewable to generate, in part or in whole, the electricity product offered for sale by the retail provider, other than disclosure of net system power; or
- (2) A statement that a specific attribute of the electricity product related to the generator creates an environmental effect.”

(Title 20, California Code of Regulations, section 1391(a).)

^{iv} Specific Purchases are defined as “electricity transactions which are traceable to specific generation sources by any auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once and only once to a retail consumer.” (Public Utilities Code, Section 398.2(b))

^v The assigned numbers are available from the Energy Commission's website at
<http://www.energy.ca.gov/sb1305/provider_numbers.html>